

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Action No. 2:07cr18
(Maxwell)**

MISTY DAWN WESTFALL SHORT,

Defendant.

ORDER

Came the Defendant, on the 24th day of May, 2007, and filed with the Court Defendant's Motion For a Guilty Plea Hearing Under Rule 11 and For an Expedited Sentencing Hearing, in which Defendant requests the Court to schedule a date for a guilty plea hearing in the above-styled criminal action and requests the Court to thereafter schedule a sentencing hearing on an expedited basis. According to Defendant's Motion, Defendant and the Government had entered into a plea agreement whereby the Defendant would plead guilty to an information charging her with use of a communication facility, namely a telephone, to facilitate the possession of pseudoephedrine with the intent to manufacture methamphetamine.

On June 22, 2007, the Defendant entered a plea of guilty before Magistrate Judge John S. Kaul to Count One of the one-count Information, which count charges the Defendant, as earlier mentioned, with use of a communication facility, that is the public telephone system, in committing, causing and facilitating the commission of felonies under Title 21 U.S.C. §841(c)(1). Also on June 22, 2007, the plea agreement entered into by the Defendant, a Waiver of Article III Judge and Consent to Enter a

Guilty Plea Before U.S. Magistrate Judge, and a Wavier of Indictment were filed with the Court. On June 26, 2007, Magistrate Judge Kaull filed an Opinion/Report and Recommendation Concerning Plea of Guilty in Felony Case. On July 2, 2007, the Government filed a Response thereto stating that it had no objections, and the Defendant filed a Response on July 3, 2007 also stating that she had no objections to the Magistrate Judge's Report and Recommendation.

Upon examination of the Report and Recommendation from the Magistrate Judge, the Plea Agreement filed with the Court, the Waiver of Article III Judge and Consent filed with the Court, and the Wavier of Indictment filed with the Court, it appears to the Court that all matters raised and suggested by Magistrate Judge Kaull in his Report and Recommendation are appropriate. The Court further finds, based upon its review, that a factual basis existed for said plea, that the plea was made freely and voluntarily, and that the Defendant understood the nature of the charges and the consequences of her plea of guilty before the Magistrate Judge. Therefore, it is hereby

ORDERED that the Magistrate Judge's Report and Recommendation be, and the same hereby is, accepted in whole, adopted by this Court, and incorporated herein. It is further

ORDERED that, based upon the aforementioned findings, the Defendant's plea of guilty to Count One of the Information be, and the same hereby is accepted. The Court hereby finds the Defendant **GUILTY** as charged in Count One of the Information in the above-styled criminal action. It is further

ORDERED that acceptance of the plea agreement, any stipulations contained in the Plea Agreement, and the binding and nonbinding recommendations contained therein be, and the same hereby are, deferred until the Court has received and reviewed the Presentence Report, which Magistrate Judge Kaull directed the Probation Officer to prepare in this matter.

Upon consideration of the Defendant's request for an expedited sentencing in this matter, as requested in her Motion For a Guilty Plea Hearing Under Rule 11 and For an Expedited Sentencing Hearing, and as requested by Defendant at her guilty plea hearing before the Magistrate Judge, as reflected in the Magistrate Judge's Report and Recommendation, the Court finds that it is appropriate in this matter to schedule the preparation of the presentence report and the sentencing on an expedited basis. Accordingly, it is

ORDERED that Defendant's motion for an expedited sentencing hearing shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that a sentencing shall be held on **July 18, 2007 at 11:00 a.m.**, at the Federal Courthouse in Elkins West Virginia. It is further

ORDERED that the United States Probation Officer assigned to the above-styled criminal matter shall undertake an abbreviated and expedited presentence investigation and shall file with the Court an abbreviated presentence report on or before **July 16, 2007**. In order to assist the probation office in preparing the presentence report, it is further

ORDERED that the Government and the Defendant shall provide their Versions of the Offense to the Probation Officer and advise the Probation Officer with regard to

any sentencing factors that might require special review on or before **July 10, 2007**. It is further

ORDERED that the Probation Officer shall submit the presentence report to counsel for their review on or before **July 11, 2007**, and counsel shall have until **July 13, 2007** to submit to the Probation Officer any objections thereto.

The Clerk of the Court is directed to transmit copies of this Order to Counsel for the United States, to Counsel for Defendant, and to the Probation Office.

ENTER: July 3rd, 2007

/s/ Robert E. Maxwell
United States District Judge